



## ACCOMPLISHMENT SUMMARY FOR YEAR 2003

### **OFFICE OF COMPLIANCE & INSPECTION (“OC&I”) – Who we are and what we do:**

The OC&I is the regulatory compliance and enforcement component of the RIDEM (Rhode Island Department of Environmental Management) for the areas of air, water, and waste. OC&I consists of several compliance/enforcement related programs including air, dams safety, emergency response, hazardous waste management, septic system (ISDS) failures, solid and medical waste, aboveground, underground and leaking underground storage tanks, water pollution and freshwater wetlands.

In 2003, OC&I had an authorized staff of 38 full time equivalents (FTEs) to perform compliance and enforcement related duties throughout the State. These duties include complaint response/investigation, compliance monitoring, issuing enforcement actions on behalf of the agency, and ensuring that compliance is met and environmental violations are corrected.

Not all OC&I programs focus on enforcement activities in the same way. For example, one program may spend considerable time on complaint response while another may spend most of its time on compliance monitoring. In fact, much of our enforcement effort is a team approach, either internally in the office or externally with other DEM divisions and offices. In many cases, our activities are coordinated with other offices at DEM including the Offices of Air Resources, Water Resources, Waste Management and Legal Services. Under some circumstances, we support the Office of Criminal Investigation and assist them with sampling, regulatory interpretation, and expert witness testimony. In many cases, we are in close communication with EPA (Environmental Protection Agency) since DEM has specific authority delegated under federal regulations regarding air, water, underground and leaking underground storage tanks and hazardous waste.

### **COMPLAINT RESPONSE**

OC&I is involved in extensive **complaint related** work. Examples of complaints and their numbers handled by OC&I in 2003 include:

**Air** – The air program responds to complaints of visible emissions, odors, fugitive dust, and exterior lead paint removal. OC&I’s air program received **1,222** complaints this year and investigated **1,085** of these complaints. The program conducted **453** inspections to investigate these complaints. Not all complaints can be investigated due to time delays in receipt of the complaint or other factors including lack of resources. In 2003, OC&I was unable to investigate **137** complaints. Two (**2**) field staff in the Air program handled complaint investigations in 2003.

**Emergency Response** – Staff of this program provide initial on-site response and support to State and municipal fire and emergency teams handling petroleum and hazardous materials/waste releases or spills. At incidents, the emergency responder provides advice and oversight for clean-ups to ensure that the environment is protected and remediation work is completed to remove hazardous contaminants and pollutants. In some instances, the emergency responders will remove waste from sites for disposal and conduct small cleanups. Examples of this may include removal of mercury, removal of small containers or clean up of small oil spills. On larger scale spills and releases, emergency responders will call in contract environmental clean up companies to handle removal and remediation of spilled or released petroleum products and hazardous wastes that threaten the environment and the public's health and safety. Reports are completed and cost recovery for clean up work is tracked and sought. This year, the emergency response program responded to **909** incidents that threaten the environment from pollutants and hazardous materials. This response was necessary to contain pollutants and hazardous materials from spreading further into the environment and to monitor clean up. This program conducted **909** inspections to carry out its responsibilities. Staff of this program also responded to incidents concerning possible weapons of mass destruction (WMD). These responses include investigating incidents where such items as anthrax, ricin, nerve agents, blister agents, radioactive material and other biological/chemical materials are alleged to be involved. Personnel from the Office inspected over 250 items, suspected of containing anthrax, at the central processing facility set up by the State Fire Marshal's Office. The items were evaluated at that location and then delivered to the Rhode Island Department of Health Laboratory for final analyses. Items were evaluated for radioactivity, volatile organic compounds, chemical nerve agents, pH analysis, bioassay results, ricin and other toxin screening using field screening devices. The Office responded to six other locations where individuals came into direct contact with the suspected material and required on-site assistance. Approximately 4 FTEs are available to carry out this work. This includes a full time supervisor.

**Hazardous waste** – While most of the work carried out by this program involves compliance monitoring, the hazardous waste program also responds to complaints involving illegal disposal or mismanagement of hazardous waste. In addition to the efforts of the compliance monitoring staff, the emergency response team members conduct some of these investigations to ensure response is timely. In 2003, OC&I received **57** complaints and investigated all **57**. **Seventeen (17)** of these complaints were unfounded.

**Septic Systems** – OC&I receives numerous complaints regarding septic systems (e.g., overflowing or failed systems, septic odors, laundry discharges, illegal repairs, or renovations to dwellings without prior review by DEM to determine if the system is adequate). In 2003, we received **435** complaints and conducted **396** investigations of these complaints. **498** inspections were conducted in 2003. OC&I also attempted to conduct **49** additional inspections; however, the inspections could not be completed at that time because of our inability to gain access to the property. Many of these inspections were completed in 2003 after permission to enter the property was granted

by the property owner. Of the complaints filed, **152** were determined to be unfounded. This work was accomplished with approximately **1.5** inspectors.

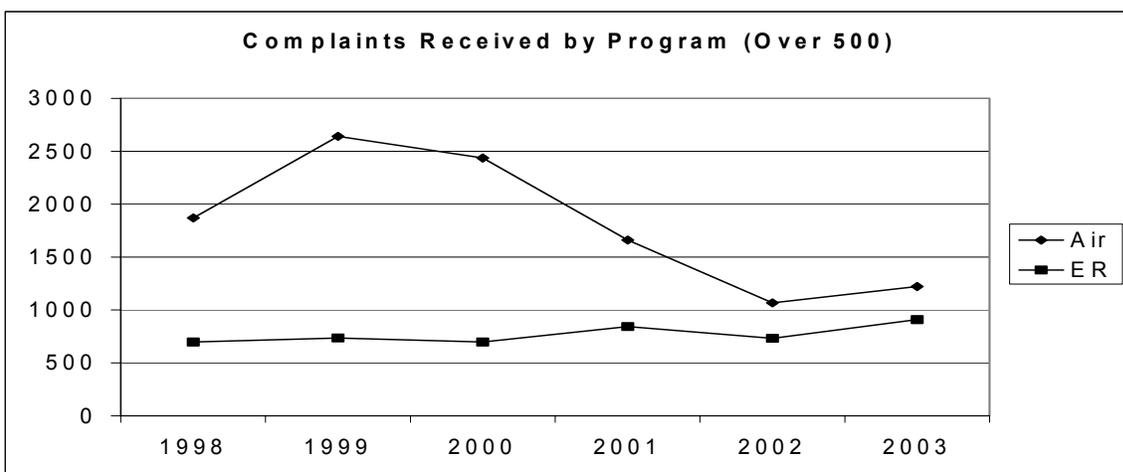
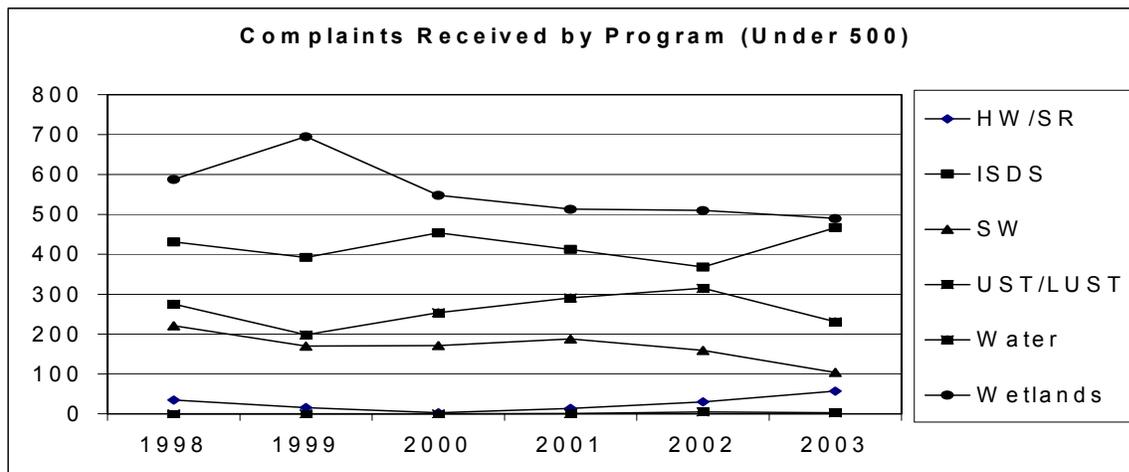
**Underground Storage Tanks (“UST”) and Leaking Underground Storage Tanks (“LUST”)** – Although the UST/LUST program is primarily involved with formal enforcement activity, its activities have been expanded to include compliance monitoring and complaint investigation. In 2002, the UST/LUST Program investigated **3** complaints involving abandoned tanks in the ground. OC&I has one partial FTE to conduct this type of work.

**Water Pollution** – The water pollution component of OC&I investigates complaints related to discharges of pollutants to surface waters or ground waters. In 2003, we received **221** complaints and conducted **191** investigations of these complaints. A total of **304** inspections were undertaken. OC&I also attempted to conduct **3** additional inspections; however, the inspections could not be completed at that time because of our inability to gain access to the property. These inspections were completed in 2003 after permission to enter the property was granted by the property owner. Of the complaints filed, **151** were determined to be unfounded. OC&I has approximately 1.5 inspectors to do this work.

**Freshwater Wetlands** – This program investigates unauthorized alterations to freshwater wetlands such as filling, excavating, grading, clearing, and construction. In 2003, this program received **489** complaints and conducted **446** investigations. A total of **922** inspections were carried out. OC&I also attempted to conduct **25** additional inspections; however, the inspections could not be completed at that time because of our inability to gain access to the property. These inspections were completed in 2003 after permission to enter the property was granted by the property owner. Of the complaints filed, **119** were determined to be unfounded. Complaint investigation in this program is time consuming and complex due to the varied nature of wetlands, land conditions, land ownership and regulatory requirements. OC&I has 4 inspectors investigating such complaints.

**Solid Waste** – The solid waste program investigates illegal disposal of solid waste and operation of unlicensed facilities handling solid waste, construction & demolition debris, compost or other forms of solid waste. In 2003, OC&I’s solid waste program received **104** complaints and conducted **100** investigations. OC&I has one full time field person in this program to conduct most investigations. The supervisor of this program often has to fill in to ensure that timely inspections and investigations are carried out. In 2003, this program completed **100** inspections.

The following graphs provide information regarding a 6-year trend in the number of complaints received by the OC&I with numbers distributed by media/programs.



## COMPLIANCE MONITORING

Compliance monitoring refers to efforts by the Department to oversee closely regulated businesses and operations. In many cases, State laws require businesses and operations to be licensed by DEM or to obtain specific detailed conditional approvals. Under these circumstances, such facilities are not allowed to operate unless they obtain these licenses or approvals in advance. In other situations, businesses may operate provided they are in compliance with specific regulations that set forth criteria the business must meet. Under these circumstances, the businesses are not generally required to obtain a permit or license to operate. DEM's Offices of Air Resources, Water Resources and Waste Management undertake the bulk of compliance monitoring especially for the more complex situations involving licensed operations or those requiring advanced conditional approvals. OC&I's compliance monitoring efforts are concentrated in specific areas where regulatory compliance is the controlling issue. Primarily this involves air, aboveground storage tanks, hazardous waste generators, UST facility operations and dams safety. In these programs, OC&I generally targets a

certain portion of the regulated universe and then conducts compliance evaluation inspections to ascertain whether or not compliance is met by the business or facility. Since DEM is delegated regulatory authority and given grant money by EPA for certain programs such as hazardous waste and underground storage tanks, DEM and EPA coordinate their efforts regarding types of facilities and numbers of inspections to be conducted. In many cases, EPA provides federal guidance for such inspections and for appropriate and timely enforcement response if compliance is not being met.

Compliance monitoring may also refer to efforts by other OC&I programs that investigate compliance with department approvals; however, in most instances these investigations are complaint driven and are not subject to a prescribed target list for evaluation. Examples include OC&I's wetlands and septic system enforcement programs.

OC&I's compliance monitoring efforts in the area of **Air, Hazardous Waste, UST facilities, AST facilities and Dams Safety:**

**Air** – In addition to investigating citizen complaints as they relate to ambient air quality issues, source checks of sites with historical air pollution compliance problems are conducted. For 2003, this program conducted **146** inspections to assure compliance with pertinent regulations. Through public contact, OC&I ensures public awareness of applicable air pollution control regulations, including but not limited to lead paint related issues.

**Aboveground Storage Tanks (AST)** – In 2003, OC&I conducted compliance inspections of **69** aboveground storage tanks as a result of complaints submitted or requests for a compliance inspection from the owners. The purpose of the inspections is to ensure compliance with the Oil Pollution Control Regulations.

**Hazardous Waste** – The goal of the hazardous waste regulations is to prevent hazardous wastes from being mishandled and adversely impacting human health and the environment. Consequently, issues like labeling of containers, storage conditions and time periods of storage, contingency plans for emergencies, training for employees, secondary containment in case of a container or tank failure, proper transportation and manifesting of waste so we know where it is ultimately being disposed and numerous other concerns are all important for generators to follow. Failure to follow these requirements could result in harm to employees, the public at large and the environment if illegal disposal or release were to occur.

For 2003, OC&I concentrated its efforts in two areas that include Large Quantity Generators (“LQG”) and Small Quantity Generators (“SQG”) of hazardous waste. For LQGs, OC&I committed to inspect 25% of Rhode Island’s universe of LQGs or **25** facilities. OC&I has followed this target for the last few years in an effort to keep inspections of these types of facilities on a regular basis. This effort should result in such facilities being inspected at least once every four years. Also, OC&I targeted any newly reporting LQGs and those that did not notify the RIDEM that they fall into this category.

In the area of SQGs, OC&I's efforts in 2003 covered multiple types of generators including metal finishers, jewelry, auto body, cleaners and aviation related businesses in and around the T.F. Green airport. OC&I committed to conducting **50** inspections of SQGs in 2003.

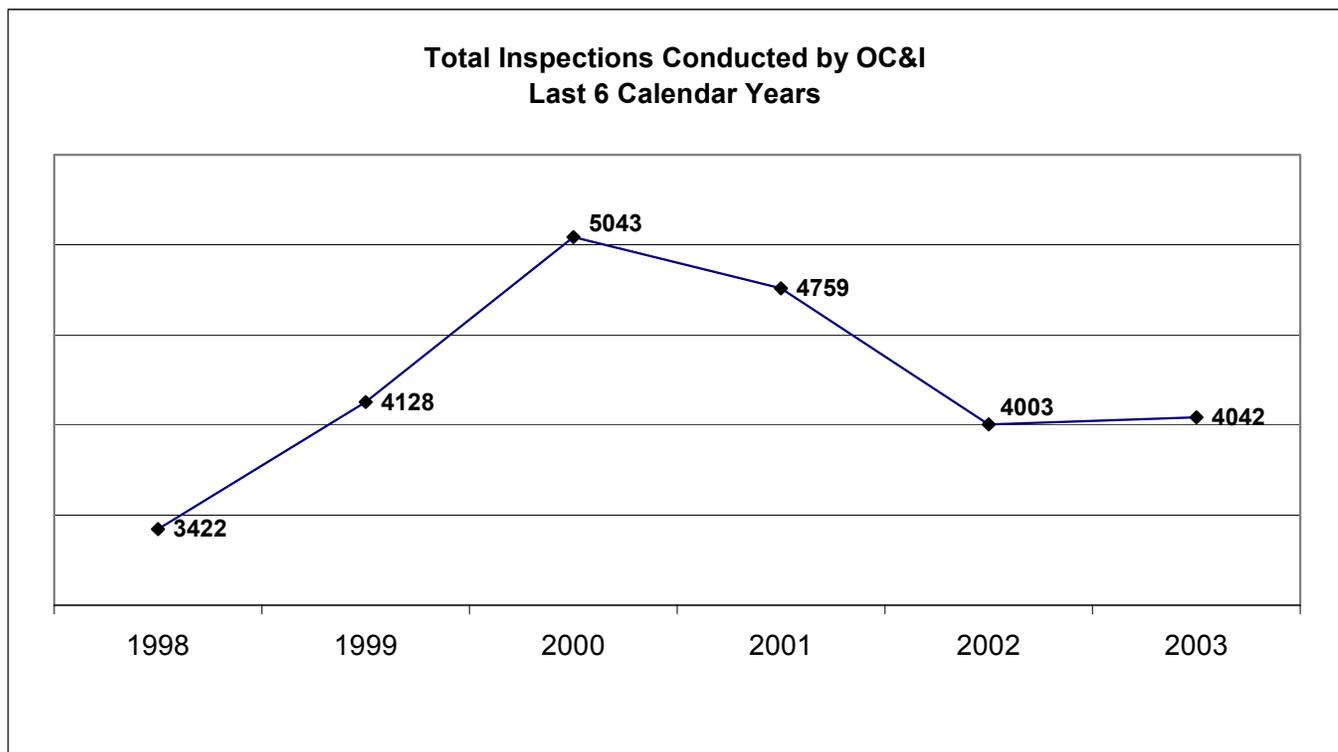
Overall, OC&I **completed 78 compliance evaluation inspections** (CEIs) of hazardous waste generators to ensure that compliance with the regulations was being met. **26** inspections of Large Quantity Generators (LQGs) of hazardous waste took place and **52** inspections took place at Small Quantity Generators (SQGs). Of the 26 LQGs inspected in 2003, **8** were found to have no violations, **10** were determined to have secondary violations and informal enforcement actions were issued. All 10 of the LQGs with secondary violations have been brought into compliance and the violations resolved. **2** LQGs were found to be in significant noncompliance and formal enforcement resulted. **6** LQGs that were inspected are still being evaluated for their compliance status. During 2003, OC&I brought into compliance **8** LQGs that were inspected in 2002 and found to be out of compliance with the regulations. Of the **52** SQGs inspected, OC&I identified **19** instances where secondary violations existed and issued informal enforcement actions in those matters. **24** SQGs were determined not to have violations and are considered in compliance. Of the 52 SQGs inspected in 2003, **9** cases remain open and under evaluation. Also in 2003, OC&I brought **25** SQGs into compliance that were inspected in 2002.

**UST facility operations** - In 2003, OC&I once again joined with DEM's Office of Waste Management to carry out compliance monitoring inspections of UST facility operations. The purpose of these inspections is to determine compliance with facility continuous monitoring systems or corrosion protection systems to ensure that USTs are not leaking and thereby releasing gasoline or other hazardous materials such as MTBE into the environment.

OC&I conducted **106 facility compliance inspections** in 2003. Approximately 275 USTs are installed at these facilities. Of those facilities, approximately 40% are located in sensitive groundwater areas. **1** Environmental Scientist at OC&I carried out this effort. OC&I has issued numerous enforcement actions to ensure that facilities meet compliance with the regulations. As a result, OC&I issued **63 new informal enforcement actions** to owners/operators of UST facilities. **41 informal enforcement cases were resolved and closed out** during the year (some of those cases were initiated during the year 2002).

**Dams Safety Program** – As part of OC&I's continuing efforts in dam safety, **162** compliance-monitoring inspections were conducted in 2003. These inspections were performed at **160** Low Hazard Dams and **2** Significant Hazard Dams. These inspections were carried out by 1 inspector. For more information on dam safety, please refer to the annual report to the Governor regarding dams safety. That report is on RIDEM's web site.

The following graph shows the trend in the number of complaint and compliance monitoring inspections conducted by the OC&I over the last 6 years.



## **ENFORCEMENT RESPONSE**

A large component of OC&I's activities for the year include an enforcement response to bring violators into compliance with environmental statutes and regulations. Our response to noncompliance discovered through complaint inspections, compliance monitoring, or other channels can take several forms, but, for the most part, can be described as either **informal** or **formal** enforcement. **Informal enforcement** includes those actions that do not result in an enforceable order or assessment of a penalty. For the most part, these actions include correspondence such as Letters of Deficiency, Warning Letters, Letters of Noncompliance and Notices of Intent to Enforce. All of these types of actions are taken to allow violators to voluntarily resolve noncompliance as quickly as possible, including repairing any environmental damage that may have occurred from noncompliance. **In 2003, OC&I issued a total of 414 such actions.** The breakdown of these actions is **Air – 58, Hazardous Waste – 29, ISDS – 136, Solid Waste – 49, UST – 63, Water Pollution – 8, and Wetlands – 71.** Where performance is required, these letters include deadlines within which the property owner or operator is expected to meet compliance. In the event that compliance is not met in a reasonable time, the OC&I will target the noncompliance for formal enforcement to ensure compliance is met. For certain programs involving air, waste and water, the RIDEM is delegated authority by the federal government to enforce federal regulations. Often the EPA dictates certain enforcement response policies that require formal enforcement in the event an owner or operator does not meet compliance within prescribed timelines. OC&I obtains varied success with informal enforcement actions depending upon the program and the ability to elevate matters to formal enforcement. In 2003, OC&I, along

with other RIDEM offices, have been tracking the number of such actions to determine success rates in both timely compliance and performance. Initial efforts starting in 2002 for example revealed that, altogether, the Bureau of Environmental Protection (“BEP”) Water, Waste, Air and OC&I offices issued a total of **1,097** informal enforcement letters. Overall, **372** informal enforcement actions were resolved without resorting to formal enforcement. The OC&I resolved **317** informal enforcement actions in 2002. In 2003 the overall BEP number rose to **1,223** informal enforcement actions issued with **852** of those actions resolved. **Thirty-one (31)** cases were referred to OC&I for formal enforcement action. The overall significant difference in numbers between 2002 and 2003 is generally due to a more concerted effort to keep better records.

**BUREAU OF ENVIRONMENTAL PROTECTION**  
**Informal Enforcement Actions\***  
**Issued/Resolved**  
**January 2003 – December 2003**

<b>OC&amp;I, OAR, OWM, OWR</b>	
<b>Issued</b>	<b>1,223</b>
<b>Resolved</b>	<b>852</b>
<b>Inspections**</b>	<b>6,991</b>
<b>Referrals to OC&amp;I</b>	<b>31</b>

\*Informal enforcement actions include Letters of Deficiency, Letters of Noncompliance, Notices of Intent to Enforce or any other documentation that advises the addressee of a violation of law or regulation identified by DEM that must be stopped, corrected or resolved. Informal enforcement actions do not involve actual enforceable orders or assessment of penalties. They are generally a means to allow property owners or operators to voluntarily reach compliance without facing administrative penalties. They do not preclude DEM from issuing a formal enforcement action including an assessment of penalties.

\*\*Includes compliance and complaint inspections and reinspections.

In the event that compliance with informal enforcement actions is not met, or RIDEM determines that violations identified at a site or facility represent significant noncompliance, OC&I will issue a formal enforcement action to ensure compliance. **Formal enforcement** is usually in the form of a Notice of Violation (“NOV”). Such actions advise the respondent of the alleged facts surrounding the case, the statutes and regulations that are alleged to have been violated, the requirements to meet compliance and usually include an administrative penalty. The requirements to meet compliance are set forth in the order portion of the NOV. The assessed penalty is developed in accordance with the administrative penalty regulations, and the NOV includes worksheets providing information on how the penalty was determined. The maximum penalty for violations is derived from the legislative statute providing RIDEM with the authority to assess and collect a penalty for civil (non-criminal) violations of laws or regulations. Since formal enforcement actions contain enforceable orders and assessments of penalties, such actions are subject to appeal with the RIDEM’s Administrative Adjudication Division (“AAD”). Respondents have 20 days to appeal the NOV to the AAD. Prior to or even after a hearing commences, OC&I and the respondent may finalize a settlement of the outstanding enforcement action. Upon completion of a

hearing, a recommended decision is forwarded to the Director for final decision. Respondents may file an appeal to contest the AAD decision to Superior Court. In the event that an administrative hearing is not requested, the NOV becomes a final order of the Director and is enforceable in Superior Court.

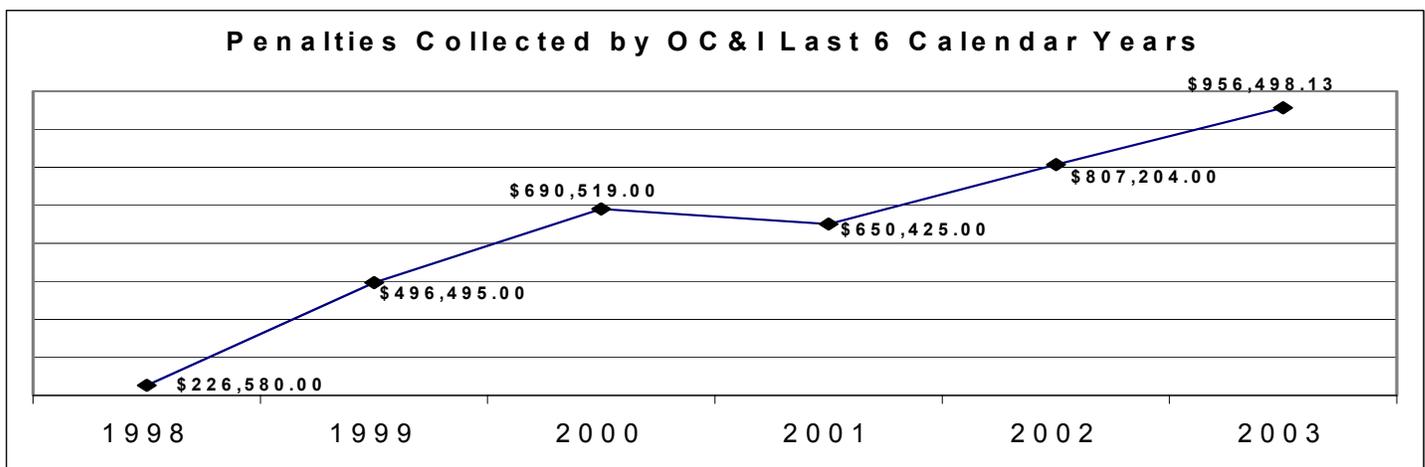
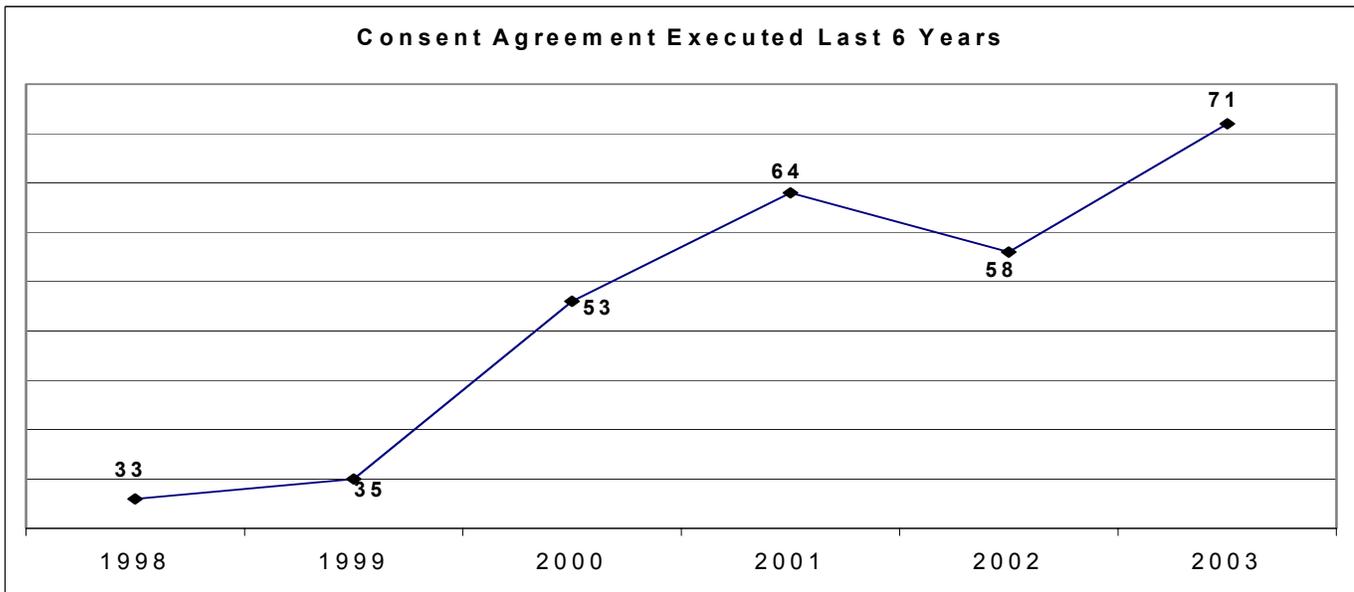
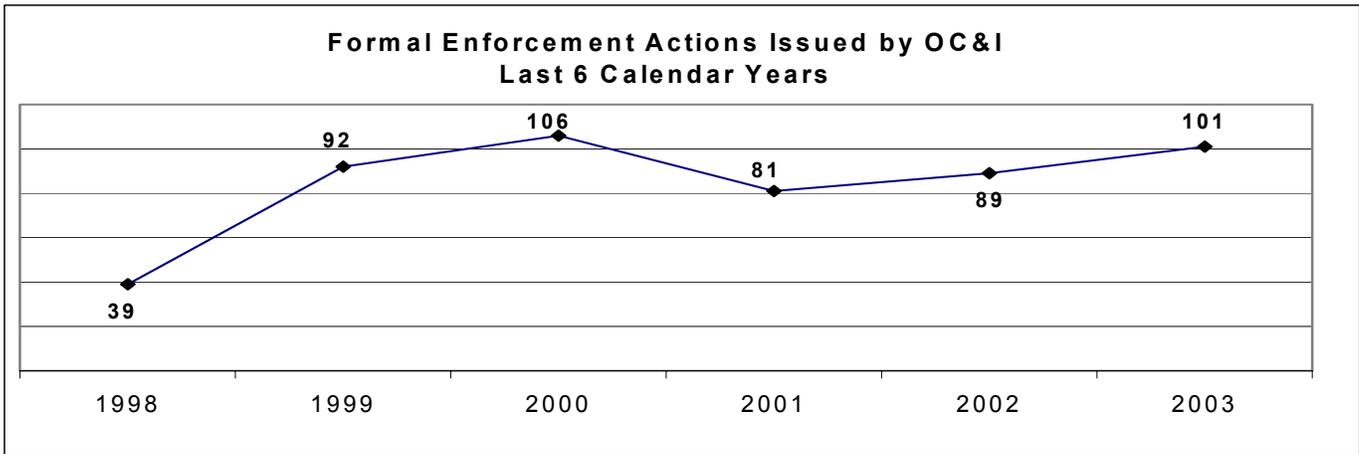
In 2003, OC&I issued **101 formal enforcement actions**. The number of actions per program were: **Air – 9, Hazardous Waste – 12, ISDS – 20, Solid Waste – 7, UST/LUST – 27, Water Pollution – 6, Wetlands – 17 and Emergency Response - 3**. The emergency response cases involved violations of the oil pollution control regulations. For a more detailed look at the background of each formal enforcement action issued by OC&I please refer to OC&I's monthly enforcement update on RIDEM's Web page at <http://www.state.ri.us/dem>.

As part of the 101 formal enforcement actions issued this calendar year, OC&I proposed total penalties for noncompliance of **\$1,832,409.44**. As a result of our efforts to settle or to resolve formal enforcement actions issued over the last year or in previous years, respondents have agreed to pay **\$2,272,475.24** in penalties in the form of cash. During 2003, OC&I collected **\$956,495.13** in the form of cash payments. OC&I also agreed to **9 Supplemental Environmental Projects ("SEPs")** worth **\$1,152,234.00**. SEPs are defined as environmentally beneficial projects that a respondent agrees to undertake in settlement of an enforcement action but is not otherwise legally required to perform. (For more details regarding SEPs, please refer to RIDEM's Policy on Supplemental Environmental Projects in effect since April 5, 1996.) In addition to penalties, OC&I spent considerable effort in recovering costs especially as a result of its emergency response efforts. Often, during an emergency response event, RIDEM is required to call in a clean-up contractor to install immediate controls to protect the environment and the public's health and safety, and to remediate the damage caused by a spill or release. OC&I must pay for these services and then seeks to have the State reimbursed through cost recovery from the responsible parties that caused the spill or release. In 2003, OC&I **collected \$251,528.82 in cost recovery** but still has an outstanding balance to collect of **\$123,176.00**. The majority of these amounts relate to emergency response activity.

In order to resolve formal enforcement actions, OC&I often executes consent agreements with respondents. The purpose of such agreements is to provide a formal document to set forth how a formal enforcement action is resolved between the parties. Such documents identify what performance is still required and under what timelines the performance will be completed. Consent agreements also identify how the penalty portion of the NOV will be resolved including a timeframe for payment of the penalty if necessary. Probably one of the most important aspects of a consent agreement is to create an agreement that is enforceable in Superior Court should it be necessary to escalate enforcement. **In 2003, OC&I executed 71 consent agreements to resolve formal enforcement actions.**

Overall formal enforcement actions in 2003 were slightly higher than 2002 with a 12% increase in formal enforcement and an 18% increase in executed consent agreements. The last two calendar years show an effort to balance the number of enforcement actions issued with those efforts necessary to bring respondents into compliance with environmental laws and regulations. The following graph shows the 6-year trend in the

number of formal enforcement actions issued and the number of consent agreements executed to resolve these enforcement actions.

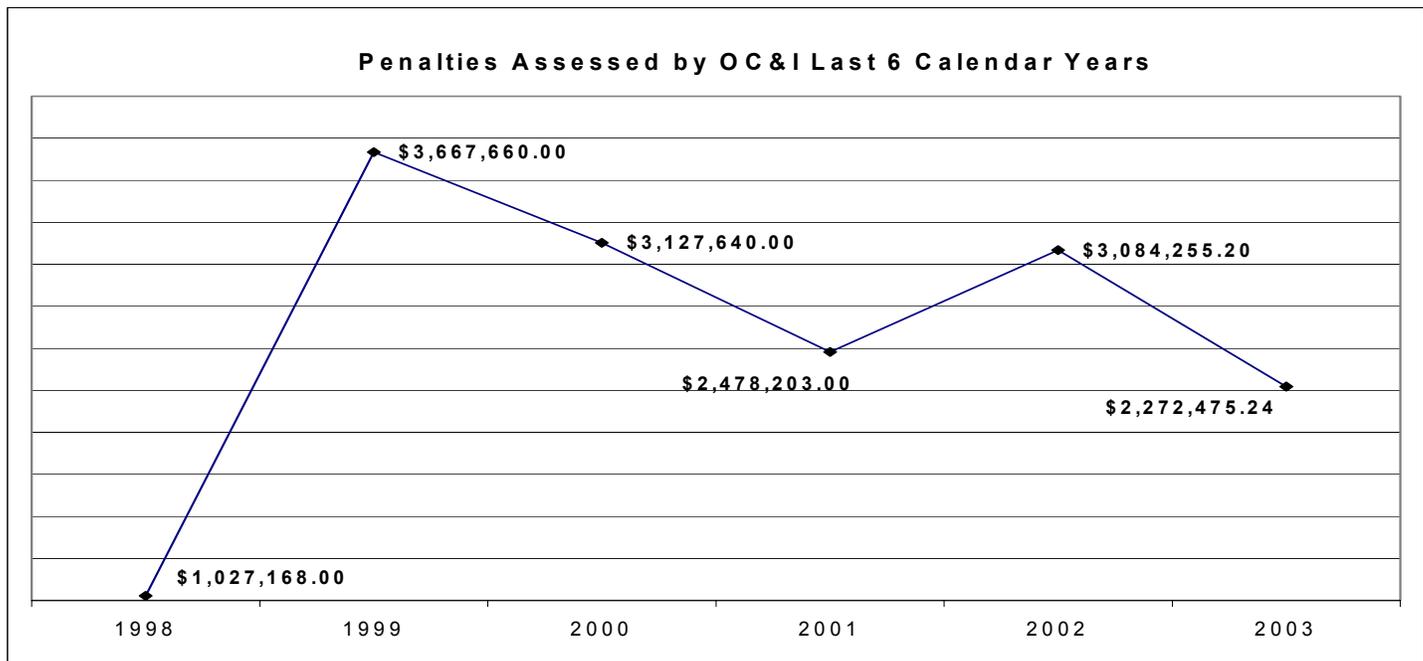


In addition to resolving cases through the formal hearing process at AAD or moving cases to Superior Court, OC&I in conjunction with the Office of Legal Services and the AAD have coordinated to use mediation in resolving outstanding enforcement cases. In 2003, only 7 cases were recommended for mediation. Most of these matters involved septic system and wetland enforcement cases. In 2004, OC&I will attempt to expand the use of mediation in other types of programs.

**Overall, OC&I closed 559 enforcement actions in 2003.**

### **ACCOMPLISHMENTS / PERFORMANCE**

As a result of OC&I's activities in the area of complaint response, compliance monitoring and enforcement response, OC&I was able to accomplish the following to



protect the environment and the public's health, safety and welfare in 2003:

**Air** - The OC&I air compliance staff ensured that **42 sites involving exterior lead paint removal** were cleaned of lead paint chips and debris in compliance with the regulations. **Six (6) emission problems** were resolved involving opacity, fugitive dust or odors.

**The following cases represent some examples of some accomplishments from the Air Enforcement Program in 2003.**

**April 24, 2003 - OC&I/AIR File No. 02-04 re: Waste Management of Rhode Island, Inc.** for property located at 65 O'Keefe Lane in the City of Warwick. On December 17, 2002, the OC&I issued a NOV to the Respondent alleging that the Respondent violated Section 23-23-5, paragraph 19 of Rhode Island's Clean Air Act and Air Pollution Control No. 9 entitled "Air Pollution Control Permits". The violation pertains to the installation and operation of a 750 horsepower diesel-fired internal combustion engine ("generator") used to power process equipment for compost grinding operations. The Respondent installed and operated the generator without first obtaining a permit from RIDEM. The OC&I alleges that the generator was first installed on or about 1 December 1998. The Respondent has subsequently obtained a permit to

install and operate the generator. The OC&I assessed a penalty in the amount of \$40,027.00. The Respondent filed an appeal of the NOV with the AAD. Prior to hearing, the Respondent and the OC&I executed a Consent Agreement to resolve the enforcement action. The Respondent provided documentation to the OC&I that supported reduction of the penalty assessed in the NOV. The Respondent agreed to and has paid a penalty in the amount of \$29,000.00.

**May 29, 2003 – OC&I/AIR File No. 02-05 re: Catanzaro & Sons Painting, Inc.** for property located at 28-30 Maple Avenue in the Town of Barrington. On August 28, 2002, the OC&I issued a NOV to the Respondent alleging that the Respondent violated sections of Air Pollution Control Regulation No. 24 relating to "Removal of Lead Based Paint from Exterior Surfaces". The violations pertained to the Respondent's failure to properly place impenetrable material on the ground at the paint removal work site, attach ground sheeting to the ground by staking or weighing down, securely seal doors and windows on walls being machine sanded, place vertical containment shrouds to prevent lead paint debris from escaping the work area, meet regulatory requirements when using mechanical methods to remove paint and failing to collect and contain lead paint removal debris. The Department issued both informal and formal enforcement actions to this Respondent in the past. The OC&I assessed a penalty in the amount of \$9,250.00. The Respondent filed an appeal of the NOV with the AAD. Prior to hearing, the Respondent and the OC&I executed a Consent Agreement to resolve the enforcement action. The Respondent agreed to pay a penalty in the amount of \$7,400.00 with \$3,000.00 paid upon execution of the Consent Agreement and the remaining \$4,400.00 to be paid in 16 equal and consecutive monthly installments of \$275.00.

**June 20, 2003 - OC&I/AIR File No. 02-09 re: Cardi Corporation** for property located at or near the area of Devils Foot Road (Route 403) in the Town of North Kingstown. On 19 September 2002 the OC&I issued a NOV to the Respondent alleging that the Respondent violated RIDEM's Air Pollution Control Regulation No. 5 regarding Fugitive Dust. The activity conducted by the Respondent was associated with new road construction. On two separate occasions, the Respondent failed to take precautions to prevent particulate matter from becoming airborne and traveling beyond the property line of the emission source at Respondent's work-site. The Respondent was advised of its obligation to comply with APC Regulation No. 5 in Letters of Noncompliance issued to the Respondent on 30 July 2001 for a work-site in the City of Cranston and again on 7 September 2001 for another North Kingstown work-site. In the NOV, the OC&I ordered the Respondent to comply with the regulation and assessed a penalty in the amount of \$5,000.00. The Respondent filed an appeal of the NOV with the AAD. Prior to hearing, the OC&I and the Respondent executed a Consent Agreement to resolve the enforcement action. The Respondent agreed to pay a penalty in the amount of \$2,750.00 upon execution of the Consent Agreement. The reduced penalty has been paid in full.

**August 28, 2003 – OC&I/ AIR File No. 02-03-NOV re: Metals Recycling, LLC, Izzo Group, Inc., and Metals Recycling, Inc.** for the facility located at 89 Celia Street in the Town of Johnston. On March 15, 2002, the OC&I issued a NOV alleging that one or more Respondents violated Rhode Island's Clean Air Act along with multiple sections of RIDEM's Air Pollution Control Regulations ("APCR"). Violations of the regulations include APCR No. 9, "Air Pollution Control Permits", APCR No. 14, "Record Keeping and Reporting", APCR No. 27, "Control of Nitrogen Oxides Emissions", APCR No. 28, "Operating Permit Fees", APCR No. 29, "Operating Permits", and APCR No. 36, "Control of Emissions from Organic Solvent Cleaning". Since at least 1987, one or more Respondents operated two internal combustion diesel engines to run the facility's auto shredder hammer mills. Two of the engines rated at 1500 horsepower were operated from at least 1987 to 1999. Two newer engines rated at 3000 horsepower each were installed and operated from 1999 to the present. The facility never obtained an approval from the RIDEM to install or operate these engines. The Respondents failed to submit a Reasonably Available Control Technology ("RACT") Plan for the control of nitrogen oxide (NO<sub>x</sub>) emissions, failed to comply with RACT requirements for the control of NO<sub>x</sub> emissions, failed to conduct emissions testing for the facility's generators, failed to apply for a Title V operating permit, failed to submit required operating permit fees and failed to submit emission inventory reports. In addition, the facility was observed to operate a solvent-cleaning machine in noncompliance with the APCR. The OC&I ordered compliance with the APCR and the Rhode Island Clean Air Act. The OC&I assessed a penalty in the amount of \$1,072,278.00 of which \$485,000.00 represented the gravity of the violation and \$587,278.00 represented the economic benefit gained from noncompliance with the law and regulations. The Respondents filed an appeal of the NOV with the AAD. Prior to hearing, the Respondents and the OC&I executed a Consent Agreement to resolve

the enforcement action. In the Consent Agreement, the Respondents agreed to meet compliance with the APCR for its air pollution generating equipment on site (either existing or to be installed as authorized by RIDEM), pay past due operating permit fees in the amount of \$54,000.00 and pay a penalty in the amount of \$700,872.00. Upon execution of the Consent Agreement, Respondents paid to RIDEM the amount of \$100,000.00. RIDEM agreed to offset \$450,872.00 of the penalty as a Supplemental Environmental Project ("SEP") in the event that the Respondents eliminate the two 3000 HP diesel generators and replace them with electric motors no later than November 1, 2005. If the Respondents choose and comply with the option to replace their diesel generators with electric motors, then the Respondents shall pay to RIDEM the remaining penalty amount of \$150,000.00, with \$75,000.00 to be paid on or before 1 January 2004 and the remaining \$75,000.00 to be paid on or before 1 August 2004. If the Respondents fail to choose the electric motor option or fail to implement the option, then the Respondents have agreed to pay the remaining penalty of \$700,872.00 less any payments already paid under the Consent Agreement. Additionally, the Respondents have agreed to certain conditions to be implemented shortly to achieve compliance with applicable air regulations.

**September 4, 2003 - OC&I/AIR File No. 02-10 re: Patriot Hauling Co., Inc., J.R. Vinagro Manufacturing and Processing Co., Patriot Disposal Co., Inc., Joseph R. Vinagro Properties, LLC, Enviro Crushing and Screening, Inc. and the JLV Family Limited Partnership** for property located at 116 Shun Pike in the Town of Johnston. On 17 December 2002, the OC&I issued a NOV to the Respondents alleging that the Respondents violated Section 23-23-5, paragraph 19 of Rhode Island's Clean Air Act and Air Pollution Control No. 9 entitled "Air Pollution Control Permits". The violation pertained to the installation and operation of a 1204 horsepower diesel-fired internal combustion engine ("generator") used to power process equipment for crushing and screening operations. The Respondents installed and operated the generator without first obtaining a permit from RIDEM. The OC&I alleged that the generator was first installed on or about 1 June 2001. The Respondents subsequently obtained a permit to install and operate the generator. The OC&I assessed a penalty in the amount of \$8,590.00. The Respondents filed an appeal of the NOV with the AAD. Prior to hearing, the Respondents and the OC&I executed a Consent Agreement to resolve the enforcement action. The Respondents paid a penalty in the amount of \$5,090.00.

**Emergency Response** - The Emergency Response program had another busy year of performance. Some of the major accomplishments include:

**Petroleum and petroleum contaminated soils**

- **Removed 825,602 gallons of waste oil and 83,763 gallons** of oil/water from the environment or from areas that posed an immediate threat to the environment or the public
- **Removed 2,956 cubic yards and 644,900 tons** of petroleum contaminated soil from the environment.
- **Removed 76 tons of oily debris**

**Hazardous chemicals and soil contaminated by hazardous chemicals**

- **15,462 gallons of hazardous chemicals** removed from the environment or from areas that posed an immediate threat to the environment or the public.
- **282 cubic yards** of hazardous waste contaminated soil removed from the environment.
- **18,729 pounds** of hazardous chemicals removed.

**Propane**

- **600 pounds and 140 tanks** of propane.

**Mercury**

- **41.25 pounds** of mercury. (This material will go to a recycler in New York for reuse.)

**Asbestos**

- **1,000 pounds** of asbestos was removed

## **Non-Hazardous pollutants**

- **25,930 cubic yards plus 21,281 pounds** of non-hazardous pollutants were removed

## **Vehicle Batteries**

- **46 batteries** were collected and removed

## **The following represent some examples of some accomplishments from the hundreds of responses of the Emergency Response Program in 2003.**

### **Technic, Inc., 1 Spectacle Street, Cranston**

On February 7, 2003 personnel from this office responded to Technic, Inc concerning an explosion, which resulted in a fire. Several people had been exposed to chemicals and one person was seriously injured. The Cranston HazMat Team requested assistance because the area where the explosion originated contained nitric acid and potassium cyanide. (When mixed, these chemicals produce a deadly gas.) The fire and police departments had secured the area and evacuated nearby residents due to the potential risk from toxic chemicals emanating from the site. The injured workers were decontaminated and transported to the hospital. The fire suppression system put out the fire, and a fire line was rigged up to insure that the fire did not restart. The fire suppression system in the building was then shut down so that the water and chemicals inside would not be flushed out of the building into Spectacle Pond approximately fifty feet away. An entry team in Level A Suits were then sent into the building with equipment to determine the pH of the water on the floor, and check the indoor air for pH, nitric acid byproducts and cyanide gas. Sampling tubes and a multigas meter were used to assess the building. The results of the investigation indicated that there was no longer a toxic atmosphere inside the building. It appears that the gases produced by the incident went through the air scrubber system for the building. The company and their contractor were then allowed into the building to shut down all chemical operations and begin to assess the damage. The investigation into the cause of the incident began with a Unified Command group entailing US OSHA, Chemical Safety Board, US EPA, RI DEM, RI Fire Marshal's Office, and the Cranston Fire Prevention Office. The cause of the explosion and fire remains under investigation.

### **Station Night Club, Cowesett Avenue, West Warwick**

On February 21, 2003 personnel from this office responded to the aftermath of the Station Fire where numerous victims were lost due to the fire and destruction. The Fire Chief requested assistance on how to decontaminate the parking lot. The biological material was sanded and bleached where necessary. A responder then went to the Emergency Operation Center in Cranston to develop the Planning Section of the Unified Command System. The Planning Section brought in lighting, which was obtained from DOT. They obtained donated refrigeration trailers for the storage of bodies for proper care and handling. DEM also contracted Clean Harbors to provide equipment and decontamination of the donated trailers.

### **URI Chemistry Department, Pastore Building, South Kingstown**

On March 10, 2003 personnel from this office responded to URI when several containers of explosive chemicals were discovered while they were conducting a chemical inventory. The material was uninhibited tetra hydro furan (THF), which is potentially explosive. The State Fire Marshal was contacted and agreed to meet DEM personnel at the site. The three gallons of THF were transported to the safety area located on the old landfill. The material was then detonated and allowed to burn. No contamination resulted from the action. The procedure used could have possibly prevented the accidental explosion of this material inside the chemistry building.

### **Residence at 124 Lakeview Drive, Chepachet**

On March 18, 2003 personnel from this office responded to 124 Lakeview Drive as a result of a home heating oil release into Keach Pond. The resident discovered that oil was emanating from a french drain system for their house. The DEM contacted Lincoln Environmental to remove the oil from Keach Pond. The EPA was also contacted to cover the State's expenses until the responsible party accepted responsibility for the cleanup. Approximately 1,882 gallons of oil and water were removed from the ice and water via a vacuum truck. It was later determined that about 150 gallons of the mixture was pure

home heating oil. The insurance companies for the resident and the oil company took responsibility for the cleanup and the bills will be sent to them. If the State encounters any problems, the National Pollution Fund Center can reimburse the State and seek restitution through the responsible party. The department's action protected Keach Pond and the waters of the State by removing the oil from the environment.

#### **Bouchard Barge No. 120, #6 Oil spill, Buzzards Bay, MA**

On April 27, 2003 DEM Enforcement was notified that the Bouchard Barge No. 120 struck the bottom off the coast of RI and MA. The vessel kept moving up the coast towards Buzzards Bay as it leaked #6 oil. The vessel was en route from Philadelphia to Massachusetts. The USCG was notified of the incident and sent a helicopter and a patrol boat to the area to assess the damage. The command center was established at Otis Air Force Base in Falmouth, MA. The responsible party (RP) contracted Clean Harbors to stop the leak while the vessel was anchored at anchorage Lima about 12 miles south of the entrance to Cape Cod Canal. The winds were blowing out of the southwest pushing the 15,000 gallons oil up towards the canal. On April 28, 2003 DEM personnel responded to the Command Center to obtain projections for the spilled oil. Permission for the contractor to use the DEM JBF skimmers was provided and the DEM rate scale would be applied. DEM personnel responded to the command center and the beaches in Little Compton for the remainder of the month of April. Arrangements were made for Fish & Wildlife personnel to transport oiled wildlife to the rehabilitation center in New Bedford. A Press Release was also issued indicating that people ought to contact DEM Enforcement if oiled wildlife or oil was found on beaches.

#### **Abandoned Drums, Route 6, Scituate**

On May 13, 2003 personnel from this office responded to a wooded area in Scituate to investigate the abandonment of eleven containers of hazardous waste. There were three 55 gallon drums, two 35 gallon containers, five 15 gallon containers and one 10 gallon container. The drums contained waste oil, paint, and solvents. The Office of Criminal Investigation was notified, but they could not find any evidence to pin point a responsible party. They contacted the Providence Journal to request assistance from anyone that may have seen the illegal disposal of these chemicals. The DEM hired a contractor to containerize and dispose of the hazardous waste properly. Approximately one cubic yard of contaminated soil was also removed from some of the leaking drums. The disposal site was about fifty feet from Vernal Pond.

#### **Arkwright Performance Papers and Films, 538 Main Street, Cranston**

On June 27, 2003 DEM personnel responded to Arkwright for a release of hazardous waste into the environment. Employees pumped off 55-gallon drums of waste into a 6,000 gallon AST. The tank was overfilled when the emergency electric shutoff failed to engage allowing 600 gallons of flammable, toxic hazardous waste to release. The waste came out of the emergency vent and into a drain in the bottom of their containment area. The waste then discharged into a dry stone detention area. Approximately 30 cubic yards of contaminated soil were excavated for disposal and stored in a sealed rolloff. The size of the contamination was larger than originally thought, so a contractor was hired to assess the extent of the contamination. Borings were completed to determine the extent of the contamination. Following evaluation of the borings, the owner excavated 300 cubic yards of contaminated soil for proper handling or disposal. Confirmatory sampling of the excavation indicated the contaminated soil had been removed.

#### **Woonsocket Mill Fire, Villanova and Florence Street, Woonsocket**

During the months of June and July 2003 personnel from this office responded to the mill fire where chemicals were stored at ACS Industries and Florence Dye. The building contained large quantities of calcium hydroxide, chrome, hydrogen gas, nitrogen gas, nickel, acetic acid, formic acid, hydrogen peroxide, sodium hydrosulfite, citric acid, #6 oil and mineral oil. The EPA was contacted to conduct air monitoring and obtain water samples from the fire fighting runoff water. The air samples showed elevated levels of benzene. As a result, some of the public was sheltered in place and over time the levels came down. BOC Gas was contacted in regards to the hydrogen tank, and they determined the tank must be offloaded to the atmosphere. Once completed they then offloaded the nitrogen tank. The operation was completed without any mishaps. Then the building owners hired Clean Harbors to remove eight drums of hazardous waste, and 20,000 gallons of #6 oil were removed from the onsite storage tanks. An oil/water mixture on the floor was pumped into two fractation tanks. After being analyzed it was determined that the material had to be treated through a carbon filtration system and then it could be discharged in

accordance with their RIPDES Permit. The actions taken helped protect human health and the environment. The Blackstone River is adjacent to the Mill.

#### **Suburban Propane, 2030 Flat River Road, Coventry**

On October 30, 2003 personnel from this office responded to Suburban Propane for a major fire. The fire occurred while they were emptying a 250 lb. cylinder adjacent to the loading dock. The fire spread to several drums of methyl alcohol that were on the loading dock. Approximately 300 gallons of methanol was involved in the fire, and a couple of these drums exploded. The fire escalated and encompassed an area where they stored propane tanks. Several of these containers exploded and rocketed into the air. A propane truck became involved in the fire, and the local fire chief jumped into the truck and drove it away from the conflagration. The truck suffered heavy damage but did not explode. The fire was put out several hours later. Five drums of methanol remained intact after the fire, and Suburban Propane hired a contractor to pump the remaining 225 gallons into new drums for reuse. OSHA and the State Fire Marshal's Office were called in to make their determinations.

#### **Methamphetamine Laboratory, 985 East Main Road, Middletown**

On October 18, 2003 DEM personnel responded to a cabin in a motel complex where an illegal drug lab was established. The Middletown Police and Fire Departments carried out a drug raid in conjunction with the Rhode Island Attorney General's Office. The Boston DEA was called in to provide analysis and dispose of the waste chemicals. When the DEA contacted their contractor they would not respond because the DEA had not paid their bill. As a result, they left the Town to dispose of the chemicals. The Town contacted the DEM for assistance. The DEM took the chemicals for proper disposal. No further action was required.

#### **Greenhalgh Mill, Kenyon and Cottage Street, Pawtucket**

On November 14, 2003 personnel from this office responded to the Greenhalgh Mill for a major mill fire. The building contained gasoline, paint, corrosives and PCBs. The fire started in the vacant mill during a windstorm with gusts over 45 mph. The wind pushed embers as far as a mile away. A total of 19 homes were damaged, nine of which were destroyed. There were about forty drums on the loading dock when the fire occurred. Three drums contained gasoline and paint, nine drums contained waste oil and water, fourteen drums contained PCB ballast and nine were plastic drums containing hydrochloric acid. When the area could be checked it was determined the only drums of waste that remained were the fourteen drums that contained PCB ballast. All other waste on the loading dock was consumed in the fire. Several tons of oil contaminated soil was also removed after a pole mounted transformer was knocked down during the cleanup operation. OC&I is overseeing the cleanup operations at the site. The Office of Waste Management will be determining if an environmental assessment and cleanup is warranted.

#### **Helicopter Crash, Pontiac Avenue, Cranston**

On November 26, 2003 DEM personnel responded Pepsi Cola Bottling Plant for a helicopter crash in the middle of the parking lot. The Channel 10 helicopter crashed when it lost lift but personnel were able to walk away from the crash. About 60 gallons of Jet A fuel spilled on the asphalt parking lot. Pepsi personnel quickly deployed speedy dry and a boom to contain the fuel on the asphalt and away from any drains. The spill covered an area approximately 120 feet by 10 feet. Clean Harbors was hired to remove the fuel for proper disposal. DEM supervised the cleanup and used field equipment to determine if there was a flammable atmosphere during cleanup operations. Once the cleanup was completed, the contractor replaced the equipment used by Pepsi and the local fire department to contain the spill.

#### **Slater Dye, 725 School Street, Pawtucket**

On December 31, 2003 personnel from this office responded to Slater Dye for a chemical reaction involving sodium hydroxide and hydrogen peroxide. A truck from Univar USA Inc. was delivering a solution of 50% sodium hydroxide to the plant. Unfortunately, the driver put 900 gallons of sodium hydroxide in the hydrogen peroxide tank. The 6,000 gallon tank contained about 5,000 gallons of hydrogen peroxide at the time he attempted to fill it. The resulting mixture created an exothermic reaction, which caused the material in the tank to boil violently. The material was forcibly ejected through the manway on the top of the tank, "looking like Old Faithful" said one fire fighter. The material was blown into the air where the winds blew the vapor cloud about a half a mile in a southeasterly direction. The most heavily-impacted area was the roof of Slater Dye, which began to smoke from the chemical reaction with the tar due to the caustic release. The Fire department then soaked the roof to keep it from igniting.

The caustic contaminated runoff generated by keeping the roof from catching fire migrated to a drain that discharges into the Blackstone River. Approximately 100 minnows swimming in the discharge stream, which flows into the river, were killed. The pH of the river was checked and remained around neutral, but the pH of the stream that flowed into the river was at about 11. Slater Dye called in a contractor to clean the streets and some of the buildings. Approximately 4 cubic yards of sand that had been used to clean the streets and about 6,000 gallons of contaminated water all had to be disposed of properly. Approximately 4,400 gallons of material was left in the tank to be removed after the reaction in the AST subsided. On January 5, 2004 the tank was cleaned and a few thousand gallons of waste were generated. However, it appears that some of the liquid leaked from the fill pipe on the tank due to the caustic material having corroded the aluminum fill pipe. The fill pipe is located below the tank and runs into the top to the bottom and fills from the bottom. Some of the material must have siphoned out of the tank through the fill pipe, and the rain that weekend must have diluted the material because the pH near the river was neutral.

**ISDS – Septic Systems** - Efforts of the ISDS enforcement program in 2003 resulted in the resolution of **84** enforcement cases. These cases involved elimination of laundry waste discharges or the repair (or agreement to repair): (a) failed septic systems for single family residences, commercial businesses, or multi-unit dwellings; (b) septic systems for properties that had renovated buildings served by an inadequate septic system; or (c) septic systems that were improperly constructed. All of these violations posed, at one point or another, threats to human health or the environment.

**The following cases represent some examples of the accomplishments of the SEPTIC SYSTEM PROGRAM in 2003.**

**Four Corners Development Associates, Inc.** for property located in the Town of Cumberland. The property includes a single-family dwelling. On March 15, 2002 OC&I issued a NOV to the Respondent alleging a violation of the ISDS Regulations. The violations pertained to the discharge of sewage to the surface of the ground from the septic system for the dwelling, failure to maintain the septic system in good working order, and alteration or repair of the septic system without an approval from RIDEM. In the NOV OC&I ordered the Respondent to cease the discharge of sewage to the surface of the ground and connect the sewerage system for the property to the town sewerage system. OC&I assessed a penalty of \$3,800.00. The Respondent filed an appeal of the NOV with the AAD. Prior to a hearing with AAD, the Respondent connected the sewerage system for the property to the town sewerage system. The OC&I and the Respondent executed a Consent Agreement to resolve the administrative penalty. The Respondent agreed to pay a penalty of \$2,500.00 through an initial payment of \$1,000.00 and monthly installments of \$500.00 thereafter. The Respondent has paid the initial payment of \$1,000.00.

**Kenneth and Susan U. Kaplan** for property located in the Town of Coventry. The property includes a single-family dwelling. OC&I alleged the Defendants were in violation of the ISDS Regulations. On September 17, 2002 an NOV was issued to the Defendants. The violation pertained to the discharge of sewage to the surface of the ground from a failed septic system for the dwelling. In the NOV, OC&I ordered the Defendants to cease the discharge of sewage and repair the septic system. OC&I assessed a penalty in the amount of \$1,000. The Defendants failed to request a hearing on the NOV. RIDEM filed a complaint in Superior Court requesting that the Court order the Defendants to repair the failed septic system and pay the penalty assessed in the NOV. Prior to the court hearing, the Defendants repaired the septic system. A Court Order was entered requiring the Defendants to pay an administrative penalty of \$750 in monthly installments.

**RCRA Hazardous Waste** - In 2003, the RCRA Hazardous Waste compliance program conducted **78** compliance evaluation inspections of hazardous waste generators. During this period of time, the program brought **76** facilities generating hazardous waste into compliance with the regulations. As a result of these inspections, a total of **41** enforcement actions were issued identifying violations of the regulations. These

violations represent threats to employees of the facility or to the public as a result of actual or potential mismanagement of hazardous waste. Examples of violations identified during inspections include the following:

- Lack of Contingency plans in case of an emergency
- Lack of Training for personnel handling hazardous waste
- Failure to label hazardous waste containers/tanks
- Failure to conduct daily inspections of tanks containing hazardous waste or weekly inspections of other hazardous waste containers to ensure no leaks or releases
- Failure to determine if the facility's waste is a hazardous waste
- Failing to keep containers of hazardous waste closed except when adding or removing the waste
- Failing to notify EPA that the facility is generating hazardous waste
- Failing to have secondary containment for containers holding liquid hazardous waste to ensure that failure does not result in release of the waste
- Failing to note the accumulation start date on hazardous waste containers to confirm how long hazardous waste is stored on site
- Storing hazardous waste on site in excess of the 90-day storage limits without obtaining a permit
- Failing to maintain adequate records regarding the handling and management of hazardous waste
- Failing to maintain adequate aisle space to allow access for emergency responders in the case of an emergency
- Failing to file biennial reports to monitor hazardous waste generation
- Failing to manage satellite containers of hazardous waste properly
- Failing to use a correct EPA ID number
- Failing to maintain satellite containers of hazardous waste at or near point of generation
- Failing to be properly prepared for emergencies
- Failing to notify RIDEM of authorized manifest signatures

**The following cases represent some examples of the accomplishments of the RCRA Hazardous Waste PROGRAM in 2003.**

**February 11, 2003 - OC&I/RCRA File No. 01-027 re: Michael Squillace d/b/a Vanity Cleaners** for property located at 1658 Cranston Street, Assessor's Plat 8, Lot 2337 in the City of Cranston. On 25 January 2002, the OC&I issued a NOV alleging that the Respondent violated multiple sections of RIDEM's Rules and Regulations for Hazardous Waste Management. The violations pertained to storing hazardous waste in excess of 90 days, failure to label containers, failure to place hazardous waste in containers, not providing secondary containment, failing to determine if wastes are hazardous, not conducting weekly inspections of hazardous waste containers, failing to mark accumulation start dates, failing to provide spill control equipment, failing to develop and maintain a contingency plan, failing to train employees who handle hazardous waste, failing to keep hazardous waste containers closed, and failing to maintain records and aisle space. The OC&I ordered compliance with the Regulations and assessed a penalty in the amount of \$36,000.00. The Respondent filed an appeal of the NOV with the AAD. Prior to hearing the Respondent and the OC&I executed a Consent Agreement to resolve the enforcement action. The OC&I confirmed that the Respondent's facility is now in compliance with the Hazardous Waste Regulations. The OC&I agreed to accept a SEP in lieu of a portion of the penalty assessed in the NOV. The SEP consisted of installing and operating a 4<sup>th</sup> Generation Dry-cleaning System. The cost of the SEP is estimated to be \$49,500.00. In addition to the SEP, the Respondent agreed to pay a cash penalty of \$4,800.00 with \$1,000.00 paid up front upon execution of the Consent Agreement and the remaining \$3,800.00 to be paid at \$200.00 per month in consecutive monthly installments.

**February 24, 2003 - OC&I/RCRA File No. 01-034 re: CCL Custom Manufacturing, Inc.** for property located at 35 Martin Street, Assessor's Plat 34, Lots 100, 193, 190, 194, 195, 256, 275 and Plat 58, Lot 111 in the Town of Cumberland. On 22 August 2002, the OC&I issued a NOV to the Respondent alleging that the Respondent violated RIDEM's Rules and Regulations for Hazardous Waste Management. The violations pertain to the Respondent's failure to determine if its wastes meet the definition of hazardous

waste, failing to note the accumulation start date on containers holding hazardous waste, storing hazardous waste in excess of 90 days without a permit, failing to provide secondary containment for containers with liquid hazardous waste, failing to conduct weekly inspections of containers of hazardous waste and failing to maintain adequate aisle space between hazardous waste containers. The OC&I ordered compliance with the Regulations and assessed a penalty in the amount of \$24,000.00. The Respondent filed an appeal of the NOV with the AAD. Prior to hearing, the Respondent and the OC&I agreed to execute a Consent Agreement to resolve the enforcement action. The OC&I confirmed that the Respondent complied with the order portion of the NOV. The Respondent agreed to and has paid a cash penalty in the amount of \$17,200.00.

**August 27, 2003 OC&I/RCRA File No. 01-033 re: Bristol Industrial Park, Inc.** for property located at 500 Wood Street, Assessor's Plat 29, Lots 1 and 3 in the Town of Bristol. On August 30, 2002 the OC&I issued a NOV to the Respondent alleging that the Respondent violated Rhode Island's Hazardous Waste Management Act and multiple sections of RIDEM's Rules and Regulations for Hazardous Waste Management and Title 40 of the Code of Federal Regulations. The violations pertained to hundreds of containers and thousands of gallons of hazardous waste stored at the property. The violations also pertained to the Respondent's failure to properly determine if its wastes are hazardous waste, failure to develop and maintain a hazardous waste contingency plan, failure to maintain a hazardous waste training program, storage of hazardous waste in excess of 90 days without the required permit, failing to obtain an EPA identification number, failure to provide secondary containment for containers of liquid hazardous waste, failing to affix accumulation start dates to containers of hazardous waste and failing to maintain adequate spill control equipment. The Respondent was advised in an informal enforcement letter as early as June 2001 that it must properly dispose of the hazardous waste stored at the property. Despite this directive, the Respondent did not dispose of the hazardous waste pursuant to State law and regulations. In the NOV, the OC&I ordered compliance with the law and regulations and assessed a penalty of \$70,853.00. The Respondent filed an appeal of the NOV with the AAD. On April 10, 2003, the OC&I issued an Amended NOV to the Respondent. The Amended NOV incorporated violations from the NOV issued on August 30, 2002 as well as alleged continuing violations for storing hazardous waste without a permit. The Amended NOV included a continuing penalty of \$10,000 per month for the continued storage of hazardous waste. The penalty assessed in the Amended NOV was \$140,853.00. Prior to hearing on the original and Amended NOVs, the Respondent and the OC&I executed a Consent Agreement to resolve the enforcement actions. On April 14, 2003, the Respondent removed all remaining hazardous waste stored at the subject facility by shipping the hazardous waste to a permitted treatment, storage and disposal facility for disposal. The Respondent agreed to an administrative penalty in the amount of \$120,000 plus interest at the rate of 12%. The penalty shall be secured by a mortgage, executed by the Respondent naming RIDEM as the mortgage holder, in the amount of \$120,000.00 on the real property. The OC&I agreed that the penalty would be resolved when the Respondent has paid the original penalty of \$70,853.00. The Respondent agreed to pay this penalty in 36 equal monthly installments of \$1968.14. The first payment is due on September 15, 2003. In the event that the Respondent sells the property, the remaining penalty of \$70,853.00 less any payments made shall be due in full. If the Respondent defaults on any payment during the penalty payment period, RIDEM is entitled to collect the full penalty agreed to in the Consent Agreement (\$120,000.00 plus interest).

**October 29, 2003 – OC&I/RCRA File No. 02-070 re: Mitkem Corporation** located at 175 Metro Center Boulevard in the City of Warwick. On May 29, 2003, the OC&I issued a NOV to the Respondent alleging that the Respondent was in violation of RIDEM's Rules and Regulations for Hazardous Waste Management and Title 40 of the Code of Federal Regulations. The violations pertained to the Respondent's failure to comply with applicable portions of the Regulations relating to the characterization of hazardous waste, keeping containers of hazardous waste closed, properly labeling of all containers holding hazardous waste, labeling and marking containers of universal hazardous waste, developing a hazardous waste personal training program, developing and maintaining a hazardous waste contingency plan, submitting a list of agents authorized to sign the Uniform Hazardous Waste Manifest and filing an exception report when transportation of hazardous waste to a treatment, storage and disposal facility is not confirmed. In the NOV, OC&I ordered the Respondents to comply with the Regulations and assessed a penalty in the amount of \$22,500.00. The Respondent filed an appeal of the NOV with the AAD. Prior to hearing, the Respondent and the OC&I executed a Consent Agreement to resolve the enforcement action. Prior to execution of the Consent Agreement, the OC&I confirmed that the Respondent was in compliance with the order portion of the NOV. The Respondent agreed to a penalty in the amount of

\$22,500.00. The OC&I agreed to offset \$13,677.00 of the penalty for Respondent's completion of a Supplemental Environmental Project (SEP). The SEP consists of the construction and use of a specialized chemical storage building at the facility for the storage of hazardous waste. The Respondent has purchased and installed the building. The Respondent also paid a cash penalty in the amount of \$8,823.00.

**December 4, 2003 - OC&I/RCRA File No. 99-020 re: Izzo Group, Inc. and Metals Recycling, LLC** for property located at 89 Celia Street, Assessor's Plat 13, Lots 219 and 266 in the Town of Johnston. On June 9, 1999, OC&I issued a NOV to the Respondents alleging that Respondents violated Rhode Island's Hazardous Waste Management Act, RI General Law §23-19.1 et seq. and RIDEM's Rules and Regulations for Hazardous Waste Management. In 1998 and 1999, RIDEM's Office of Criminal Investigation conducted an investigation of the Respondents' facility. Evidence gathered in that investigation was turned over to the RI Attorney General for prosecution. The RI Attorney General released the information for use by RIDEM OC&I for regulatory purposes. Review of the evidence determined that Respondents' auto shredder residue ("ASR") at the time contained polychlorinated biphenyls above 50 parts per million which is a level in RIDEM's regulations that classifies the material as hazardous waste. Evaluation of the evidence gathered by the Office of Criminal Investigation revealed that Respondent's actions or failure to act resulted in multiple regulatory violations. The violations pertained to Respondents' failure to manage its hazardous waste that existed in piles of ASR in an appropriate manner, failing to mark and label hazardous waste, failing to obtain an operating permit to accept, store and transfer hazardous waste, failing to adequately determine if any of their waste meets the definition of hazardous, failing to transport hazardous waste by a licensed transporter to a licensed hazardous waste treatment, storage or disposal facility, failing to manifest hazardous waste, not keeping appropriate records, accepting hazardous waste without a manifest and failing to prepare and submit a biennial report. OC&I ordered compliance with the law and regulations and assessed a penalty in the amount of \$718,045.00. The Respondents filed an appeal of the NOV with the AAD. The Respondents sought and achieved a stay of the adjudicatory hearing at AAD while the criminal case before the Superior Court proceeded. Subsequent to RIDEM's criminal and civil regulatory actions, USEPA commenced a hazardous waste regulatory investigation of the Respondents' facility. USEPA alleged that violations of federal hazardous waste regulations existed at the facility pursuant to Section 3005(a) of RCRA, 42 U.S.C. Section 6925(a). In September 2001, Respondents executed an Administrative Settlement with USEPA to resolve improper storage violations of hazardous waste and to facilitate clean up of contaminated ASR at the facility. A penalty in the amount of \$200,000.00 was paid to USEPA. On December 4, 2003, following agreements reached between the Respondents and the RI Attorney General's Office regarding the criminal matter pending before the Superior Court, OC&I and the Respondents executed a Consent Agreement to resolve the NOV. The Respondents agreed to a penalty in the amount of \$250,000.00. The penalty was paid in full upon execution of the Consent Agreement.

**Solid Waste** - As a result of OC&I's enforcement efforts, approximately **13,663 cubic yards** and **4,488.63 tons** of solid waste was removed from the environment and disposed of properly. **Tire Piles** – Potential threats from such piles include fire, smoke, liquid petroleum resulting from burned tires and significant breeding of mosquitoes where trapped water provides excellent breeding habitat. As a result of OC&I's efforts in 2003, approximately **20,100** used tires were removed from the environment. To the best of OC&I's knowledge, there are only 3 or 4 sites with tire piles with any appreciable accumulation of tires remaining. The largest accumulation is approximately **15,000** tires and the smallest is around **2,000** tires or less. OC&I is continuing its efforts to have property owners achieve compliance by removal of all tire piles and accumulated tires in excess or that allowed by State law.

**The following cases represent some examples of the accomplishments of the Solid Waste PROGRAM in 2003.**

**May 12, 2003 – OC&I/Solid Waste File No. 02-034 re: Danya L. Izzo and Metro Waste, Inc.** for property located at 6 Shun Pike, Assessor's Plat 31, Lot 43 in the Town of Johnston. On 31 December

2002, the OC&I issued a NOV to the Respondents alleging that the Respondents violated Rhode Island's Refuse Disposal Act by operating a solid waste management facility without a license. The violations pertained to the Respondents receiving, processing and storing construction and demolition debris on the property. The OC&I ordered the Respondents to cease operating a solid waste management facility, cease disposal of C&D on the property and to remove all C&D material to a licensed solid waste management facility within 30 days. A penalty in the amount of \$35,000.00 was assessed in the NOV. The Respondents filed an appeal of the NOV with the AAD. Prior to hearing, the Respondents and the OC&I executed a Consent Agreement to resolve the enforcement action. The Respondents agreed to remove all solid waste from the property no later than 1 June 2003 and agreed to pay a penalty in the amount of \$12,500.00. The penalty is to be paid over a period of time with \$5,000.00 to be paid within thirty (30) calendar days of the execution of the Consent Agreement and the remaining \$7,500.00 to be paid in 12 equal and consecutive monthly installments of \$625.00.

**September 22, 2003 – OC&I/Medical Waste File No. 03-017 re: Warwick Medical Walk-In Room Inc.** for property located at 1131 Warwick Avenue in the City of Warwick. On 21 March 2003, the OC&I issued a NOV to the Respondent alleging that the Respondent violated Rhode Island General Law Section 23-19.12-12 and Section 16.00 of the Rules and Regulations Governing the Generation, Transportation, Storage, Treatment, Management and Disposal of Regulated Medical Waste in Rhode Island. The violations pertained to Respondent's failure to renew its registration as a Regulated Medical Waste Generator in Rhode Island for the years 2000, 2001 and 2002 and to pay annual registration fees for those years. The Respondent was advised that it failed to renew its registration in a Letter of Noncompliance ("LNC") issued by RIDEM on 26 December 2000. Despite the issuance of the LNC, the Respondent continued to generate medical waste without renewing its required registration and paying its required registration fees. In the NOV OC&I ordered the Respondent to immediately cease the generation of medical waste in Rhode Island until such time that it obtains registration as required by law and regulation. The Respondent was also ordered to pay all annual registration fees for the years 2000, 2001 and 2002. The OC&I assessed a penalty of \$3,750.00. The Respondent filed an appeal of the NOV with the AAD. Prior to hearing the Respondent and the OC&I executed a Consent Agreement to resolve the enforcement action. The Respondent properly registered as a Regulated Medical Waste Generator and paid all past registration fees owed. The Respondent agreed to a penalty in the amount of \$2,500.00 that was paid upon execution of the Consent Agreement.

**Underground Storage Tanks** - As part of OC&I's informal and formal enforcement efforts in the UST enforcement program, we obtained some direct benefits of our actions. These included the removal of **5 noncompliant USTs** from the environment including the permanent closure of the USTs. As a result of the compliance inspections conducted by OC&I, **29** USTs were repaired or upgraded to bring them into compliance with the leak detection and prevention requirements. OC&I issued **63** informal enforcement actions and another **27** formal enforcement actions to **UST** facilities regarding their noncompliance with the regulations and brought **50** facilities into substantial compliance. This included some facilities cited for violations identified in 2002. OC&I executed 17 UST consent agreements in 2003 to resolve outstanding formal enforcement actions.

**The following cases represent some examples of the accomplishments of the UST Enforcement Program in 2003.**

**February 6, 2003 – OC&I/UST File Nos. 00602 and 00604 re: The City of Newport** for underground storage tanks ("UST") at the City's Micro Strainer on Wellington Avenue and its wastewater treatment facility's force main pump station at 110 Long Wharf. On 20 December 2001, the OC&I issued a NOV alleging that the Respondent violated multiple sections of RIDEM's Regulations for Underground Storage Facilities Used for Petroleum Products and Hazardous Materials ("the UST Regulations"). (See OC&I's monthly enforcement web page update for December 2001 for details related to the alleged violations in this case.) The OC&I ordered the Respondent to upgrade the UST systems to bring them into compliance with the UST Regulations or to permanently close the USTs. A penalty in the amount of \$38,110.00 was

assessed in the NOV. The Respondent filed an appeal of the NOV with the AAD. Prior to hearing the Respondent and the OC&I executed a Consent Agreement to resolve the enforcement action. The Respondent agreed to a penalty in the amount of \$32,310.00. The OC&I agreed to a Supplemental Environmental Project ("SEP") to offset a portion of the penalty. The SEP consisted of removal and closure of the USTs and replacing the USTs with aboveground storage tanks ("ASTs"). OC&I agreed to offset the gravity portion of the penalty (\$19,500.00) for the SEP. The estimated cost of the SEP is \$126,100.00. The Respondent paid the economic benefit portion of the penalty, which was \$12,810.00.

**July 31, 2003 – OC&I/UST File Nos. 00-01106, 01107, 01108, 01111, and 01112 re: the City of Cranston** for properties located at the Cranston Highway Garage at 20 Phenix Avenue and the Cranston Fire Department at Station One, 131 Park Avenue, Station Two, 301 Pontiac Avenue, Station Ten, 1155 Scituate Avenue and Station 12, 1041 Oaklawn Avenue in the City of Cranston. On 6 July 2000, the OC&I issued a NOV to the Respondent alleging that the Respondent violated multiple portions of the UST Regulations. The violations pertained to corrosion protection upgrade requirements, precision testing, spill containment basins, overflow protection, and abandonment of UST systems. Not all violations occurred at all facilities cited. In the NOV, the OC&I ordered compliance with the UST Regulations including the submission of Closure Assessment Reports, Site Investigation Reports and Corrective Action Plans if necessary. The Respondent was ordered to submit all results of missing tests and to verify installation of spill containment and overflow protection. The OC&I assessed a penalty in the amount of \$98,830.00. The Respondent filed an appeal of the NOV to the AAD. Prior to hearing, the Respondent and the OC&I executed a consent agreement to resolve the enforcement action. Following issuance of the NOV, the Respondent closed all USTs at the subject properties. The Respondent discovered a release of oil/petroleum to the environment at the 20 Phenix Avenue property. As part of the Consent Agreement, the Respondent agreed to complete the investigation of the release and to implement appropriate remedial efforts relating to subsurface contamination. The OC&I agreed to a reduced penalty in the amount of \$66,685.00 and further agreed to allow the Respondent to offset the penalty in the form of a Supplemental Environmental Project ("SEP"). The SEP consists of the removal of six USTs from City property. The removal of the USTs will remove a potential threat from the environment that is not otherwise required by the UST Regulations. Removal of the USTs must be completed no later than June 30, 2004. The Respondent must document all costs of the removal and certify that it has met all requirements set forth in the RIDEM SEP policy. In the event that removal of the USTs costs less than the penalty in the Consent Agreement, the Respondent must pay the cash difference to the RIDEM.

**Water Pollution** - The accomplishments of the water pollution program in 2003 include **15 water pollution discharges** that were corrected or eliminated. These included sewage discharges from residential and/or commercial buildings, sediment runoff for construction projects, and industrial wastewater discharges.

**The following cases represent some examples of the accomplishments of the WATER POLLUTION PROGRAM in 2003.**

**CIC-Newport Associates** for property located at Long Wharf Mall (also known as Long Wharf Mall South) in the City of Newport. OC&I issued a NOV to the Respondent on June 14, 2001 alleging violations of Rhode Island's Water Pollution Act and RIDEM's Water Quality Regulations. The violations pertained to the continuous discharge of sanitary sewage from the property to Newport Harbor through the city's stormwater drainage system. In the NOV the OC&I ordered the Respondent to connect the sewerage system for the property to the city's sewerage system. A penalty of \$105,000 was assessed in the NOV. The Respondent filed an appeal of the NOV to AAD. The Respondent connected the sewerage system for the property to the city sewerage system on January 18, 2002. Prior to hearing on the NOV, the Respondent and OC&I executed a Consent Agreement to resolve the administrative penalty. The penalty assessed in the NOV was based in part on the duration of the violations. The Respondent was able to document that it was unaware of the violations for a substantial period of the time alleged in the NOV. The penalty was recalculated based on the information provided by the Respondent. The Respondent paid a penalty of \$24,000.

**Elmwall Associates** for property located at Long Wharf Mall (also known as Long Wharf Mall North) in the City of Newport. OC&I issued a NOV to the Respondent on June 14, 2001 alleging violations of

Rhode Island's Water Pollution Act and RIDEM's Water Quality Regulations. The violations pertained to the continuous discharge of sanitary sewage from the commercial businesses on property to Newport Harbor through the city's stormwater drainage system. In the NOV the OC&I ordered the Respondent to connect the sewerage system for the property to the city's sewerage system. A penalty of \$55,000 was assessed in the NOV. The Respondent filed an appeal of the NOV to AAD. The Respondent connected the sewerage system for the property to the city sewerage system on April 15, 2002. Prior to hearing on the NOV, the Respondent and OC&I executed a Consent Agreement to resolve the administrative penalty. The penalty assessed in the NOV was based in part on the duration of the violations. The Respondent was able to document that the initial plan to remedy this violation was part of the city's plans to reconstruct the roadway in front of the building, and the delay in resolving this violation was caused by the city's decision not to move forward with the roadway project. The penalty was recalculated based on the information provided by the Respondent. The Respondent agreed to perform a Supplemental Environmental Project (SEP) to offset a portion of the penalty. The SEP involved work associated with connecting the city's museum building (which is adjacent to the Respondent's building and was suspected of discharging sewage into Newport Harbor as well) into the city sewerage system. The Respondent was given a credit of \$17,500 for the SEP and agreed to pay a penalty of \$10,000. The SEP was completed and the penalty paid to RIDEM.

**Edmund G. Proulx Jr.** for property located in the Town of Tiverton. OC&I issued an NOV to the Respondent on March 19, 2002 alleging that the Respondent violated RIDEM's Water Pollution and ISDS Regulations by allowing sewage to discharge to the Sakonnet River from the single family dwelling on the Respondent's property. In the NOV OC&I ordered the Respondent to take immediate temporary action to cease the discharge of sewage and submit a plan for a permanent solution to the violation. A penalty of \$15,000 was assessed against the Respondent. The Respondent filed an appeal of the NOV to AAD. The Respondent constructed an individual sewage disposal system (ISDS) for the dwelling on July 26, 2002 to resolve the violation. Prior to hearing on the NOV, the Respondent and OC&I executed a Consent Agreement to resolve the administrative penalty. The penalty assessed in the NOV was based in part on the duration of the violations. The Respondent was able to document that the delay in resolving the violation was due in part to the Respondent's inability to retain a licensed designer to work on the violation due to the difficult nature of the site. The dwelling is immediately adjacent to the Sakonnet River, and there was no area for a conventional ISDS. The Respondent agreed to pay a penalty of \$3,000 in ten monthly installments.

**Louise Cardi** for property located in the town of Coventry. On June 23, 1993, RIDEM issued a Notice of Violation and Order (NOV) to the Respondent for water quality violations to Tiogue Lake caused by soil erosion from the property and included an administrative penalty of \$10,000. The Respondent requested a hearing before the RIDEM Administrative Adjudication Division (AAD) on the allegations contained in the NOV. To resolve the NOV, the Respondent entered into a Consent Judgement with RIDEM. Pursuant to the Consent Judgement, the Respondent agreed to pay an administrative penalty of \$10,000, install temporary erosion controls on the property and submit to RIDEM for review and approval an engineering plan for a permanent solution to the erosion problem. The Respondent failed to comply with any portions of the Consent Judgement. RIDEM filed a complaint against the Respondent in Superior Court on August 13, 1997. The Superior Court placed the property in receivership on December 12, 2001. The receiver sold the property on March 28, 2003 and RIDEM received the \$10,000 penalty that was owed. The current property owner had previously installed appropriate erosion controls on the property in 2001 as a result of a separate complaint RIDEM and the Attorney General filed in Superior Court against the current owner in May 2001.

**Adult Assisted Care Associates, LLC** for property located in Portsmouth and Middletown. On October 17, 2002 OC&I issued a NOV to the Respondent alleging that the Respondent violated the Water Pollution Act and the RIDEM Water Quality Regulations. The violation pertained to the construction of a wastewater collection system without having obtained all required approvals from RIDEM. A penalty of \$6,250.00 was assessed in the NOV. The Respondent filed an appeal of the NOV with AAD. Prior to hearing, the Respondent agreed to pay a reduced penalty of \$3,500.00 as full resolution of the administrative penalty. The penalty was paid upon execution of the Consent Agreement.

**Freshwater Wetlands** - Some of the accomplishments of the Freshwater Wetlands enforcement program for 2003 include completion of **42** wetland restorations. This resulted in restoration of **2.3 acres** of wetland and **4.4 acres** of regulated upland adjacent to freshwater wetlands. Restoration includes remedial work such as removal of fill and unauthorized structures, re-grading, seeding unstable soils, and replanting trees and shrubs to recreate wildlife habitat. In some cases where clearing is the only unauthorized activity, restoration also would include the landowner's agreement to allow the cleared area to re-vegetate to a natural wild condition.

**The following case represents an example of work effort of the FRESHWATER WETLANDS PROGRAM in 2003.**

**RIDEM v. Eleanor V. Davis**

Pursuant to a Court Order and Judgment issued by the Superior Court of Rhode Island in August 1987, Freshwater Wetlands located on property owned by Eleanor V. Davis in the Town of Smithfield were to be restored to their condition as of June 1971. The date for restoration was dependent upon the remediation activities of CERCLA (Superfund – 42 USCA 9601) and other restoration activities on the Property. Upon the removal of millions of tires from wetlands and other areas on the Davis Property and other remedial work required by the State and Federal Government, an amended Superior Court Consent Order was entered in November 2003 to create freshwater wetlands on the Property. As of November 2003 approximately half of the wetland restoration has been excavated. The Superior Court Order requires that the remainder of the wetland restoration work be completed by September 30, 2004. Numerous hours of effort were spent to enforce the original court order and to achieve restoration of wetlands that were damaged and destroyed through illegal action on the part of the owner. These efforts not only involved the OC&I but also the Office of Waste Management and the Attorney General's Office.

**RIDEM v N.E.P. Corp. d/b/a Hemlock Estates Mobile Home Park and Pasquale Olivo re:** property located east of RI Route 102, northeast of Pound Road in the Town of Glocester. This case involved multiple NOV's issued to the defendants in past years involving alleged violations of Rhode Island's Freshwater Wetlands Act, Refuse Disposal Act and Rules and Regulations Establishing Minimum Standards Relating to Location, Design, Construction and Maintenance of Individual Sewage Disposal Systems (the "ISDS Regulations"). The Respondents executed a Consent Agreement with the Department to resolve noncompliance with environmental laws and regulations. Following a finding of their having failed to meet compliance with the Consent Agreement, RIDEM filed a complaint against the defendants with the Rhode Island Superior Court. The Attorney General represented the RIDEM in the subject case. Although the Respondents eventually met compliance with the orders contained in the NOV's and the requirements of the Consent Agreement, Respondents failed to pay stipulated penalties that accrued due to their noncompliance. The Respondents owed the Department over \$100,000.00 in stipulated penalties. The Respondents ultimately filed for bankruptcy and the Superior Court appointed a Receiver. The Attorney General and the Receiver negotiated a settlement of the case that resulted in the Department receiving \$20,000.00 in penalties to close the case.

**Fred Reiger** for property located in the Town of Foster. On May 3, 1984 RIDEM issued an NOV to the Respondent alleging a violation of the Freshwater Wetlands Act and the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act. The violation pertained to the unauthorized construction of a dam across the Moosup River. In the NOV the Respondent was ordered to remove the dam from the Moosup River. The Respondent failed to request a hearing on the NOV. On August 28, 2001 an inspection by OC&I revealed that the Respondent had maintained fill in the form of the concrete and boulder dam and had changed the character of the Moosup River by failing to remove the dam referenced in the prior NOV. OC&I ordered the removal of the unauthorized dam and all associated fill from the Moosup River and assessed a penalty of \$1,000. The Respondent filed an appeal of the NOV with the AAD. Prior to hearing, the Respondent and the OC&I executed a Consent Agreement to resolve the enforcement action. The Respondent agreed to remove the dam by October 31, 2004 and agreed to pay a reduced penalty in the amount of \$500.00.

**Chris Ann DeSarro** for property located in the Town of Charlestown. On July 16, 2001, OC&I issued a NOV to the Respondent alleging that the Respondent violated the Freshwater Wetlands Act and the Rules and Regulations Governing the Administration and Enforcement of the Freshwater Wetlands Act. The violations pertained to clearing, filling, and constructing a single family dwelling and driveway in a Riverbank Wetland. These activities resulted in the unauthorized alteration of approximately 24,700 square feet of Riverbank Wetland. In the NOV the Respondent was ordered to cease and desist from any further alterations of freshwater wetlands and restore the wetland. OC&I assessed a penalty of \$1,000. The Respondent filed an appeal of the NOV with the AAD. Prior to the hearing with the AAD, OC&I and the Respondent executed a Consent Agreement wherein the Respondent was allowed to keep the house that was constructed in the wetland. The Respondent agreed to remove all fill and replant the remaining area within the Riverbank Wetland with trees and shrubs by May 15, 2003. The Respondent also agreed to pay an administrative penalty of \$500. The penalty of \$500 was paid upon execution of the Consent Agreement.

**Ashford Homes, LLC** for eight separate properties located in the Town of West Warwick. The properties are single family dwellings that were constructed by the Respondent. On July 13, 2001 OC&I issued 8 NOVs to the Respondent alleging violations of the Freshwater Wetland Regulations. The violations pertained to clearing, filling, grading, and construction activities within Perimeter Wetland. OC&I assessed a total penalty for all the NOVs of \$15,600. The Respondent filed an appeal of the NOVs with the AAD. Prior to the hearing on the NOVs, the Respondent and OC&I executed a Consent Agreement to resolve the enforcement actions. The Respondent agreed to restore the altered freshwater wetlands on each property provided that access to the property can be obtained from the property owner. The OC&I agreed to a reduced total penalty of \$8,300.00. The reduced penalty has been paid in full.

### **QUESTIONS OR COMMENTS regarding this report:**

Questions related to this report or information regarding overall enforcement activity by the Office of Compliance & Inspection should be referred to the Chief of the Office of Compliance & Inspection (telephone: 401-222-4700, ext. 7431).

OFFICE OF COMPLAINT & INSPECTION  
 ENFORCEMENT ACTIVITIES  
 January 2003 to December 2003

COMPLAINTS	AIR	ER	HW/SR	ISDS	SW	UST/LUST	WATER	WET	Total
Received	1222	909	57	435	104	3	221	489	3440
Investigations Conducted	1085	909	57	396	100	3	191	446	3187
Unable to Investigate	137	0	0	49	0	0	13	7	206
Unfounded	974	17	17	152	14	1	151	119	1445
No Action	36	0	0	14	0	0	28	97	175
Inspections	453	909	57	498	100	2	304	922	3245
Referred**	60	2	0	0	3	0	21	0	86
<b>COMPLIANCE MONITORING</b>									
Inspections	146	31	78	0	196	106	4	74	635
Dam Safety Program	162 Inspected (160 Low Hazard; 2 Significant Hazard)								
<b>ENFORCEMENT ACTIONS</b>									
Informals - issued	58	0	29	136	49	63	8	71	414
Informals - resolved	47	0	34	58	79	41	12	42	313
Formals - issued*	9	3	12	20	7	27	6	17	101
Formals - closed	6	0	9	9	8	17	6	16	71
Consent Agreements Executed	6	0	9	9	8	17	6	16	71
Penalties Proposed (Formal Actions)	\$495,738.00	\$55,445.20	\$324,156.00	\$50,400.00	\$123,897.24	\$494,523.00	\$235,000.00	\$53,250.00	\$1,832,409.44
Penalties Assessed (Consent Agreements)	\$758,612.00	\$0.00	\$515,350.00	\$19,350.00	\$54,647.24	\$288,266.00	\$590,500.00	\$45,750.00	\$2,272,475.24
Penalties Collected (Cash Received)	\$229,565.00	0	\$351,216.90	\$23,250.00	\$59,562.54	\$194,976.21	\$48,050.00	\$49,874.48	\$956,495.13
Cost Recovery (Outstanding) ER only	-----	\$123,176.00	-----	-----	-----	-----	-----	-----	\$123,176.00
Cost Recovery (Collected) ER only	-----	\$251,528.82	-----	-----	-----	-----	-----	-----	\$251,528.82
SEP Agreed To	2	0	2	0	0	2	2	1	9
SEP Monetary Value	\$458,372.00	0	\$63,177.00	\$0.00	\$0.00	\$86,185.00	\$517,500.00	\$27,000.00	\$1,152,234.00
Mediation Cases	0	0	0	3	1	0	0	3	7
AAD/Superior Court Cases	0	0	0	4	5	0	0	4	13
Criminal Investigation Assist Cases	0	0	0	0	1	0	0	0	1
*Multi-media NOV's issued = 5 These are included in the program counts.									
**Referred to other program, department or agency.									
"Complaints Received" represents the total number of complaints received including multiple complaints per location or alleged violation.									
"Complaint Investigations" are counted only once even though one Investigation may address multiple complaints received.									
"Compliance Monitoring" includes Hazardous Waste Generators and approved or permitted projects/activities.									
"Informal" = Letters of Deficiency, Letters of Warning, Letters of Intent to Enforce, Letters of Noncompliance (i.e., non-orders, non-penalty actions)									
"Formal" = Notices of Violation that contain orders and/or penalties									